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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,935	09/15/2003	Roland Lagasse	60,137-167; 009-3018-	2028
26096	7590	09/09/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 09/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,935

Applicant(s)

LAGASSE, ROLAND

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005 and 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-10,12-14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 12-14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The disclosure is objected to because of the following informalities: Paragraph 16, lines 5 and 9, "34" designates different elements, and lines 10 and 11, "38" designates different elements; and paragraph 16, line 3, and paragraph 18, line 4, "27" and "42" designate the same element.

Appropriate correction is required.

2. Claims 2 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites a "pivot joint" 22 provided with a "pivot joint connection portion" 22 (reference numerals taken from applicant's disclosure). These two elements are one in the same according to applicant's amended disclosure. Therefore, the metes and bounds of this claim language is indefinite. Claim 9 is similarly indefinite.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13, 16, 1, 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren.

The Thulin reference discloses a pivot connection/mount comprising: a pair of links 20,27 including an end wall having a cup 25, a threaded member 29, a cylindrical member 22, a nut 30, and a pivot joint/pivot joint connection portions 22,25; and a showerhead 41, as claimed.

Although the threaded member of the Thulin pivot connection is not immovably fixed, as claimed, attention is directed to the Warren reference which discloses an analogous pivot connection which further includes a threaded member 10 that is immovably fixed (with 8). Therefore, in consideration of Warren, it would have been obvious to one of ordinary skill in the pivot connection art to immovably fix the threaded member associated with the Thulin pivot connection in order to facilitate

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tightening of the connection. Furthermore, the threaded member of Warren includes a non-uniform outer periphery (Fig. 3).

Applicant argues at page 10 of the response filed May 06, 2005 there is no suggestion to combine the Thulin and Warren disclosures. The examiner can not agree. Thulin discloses a mount/pivot connection including one form of pivot joint having a movable threaded member. Warren discloses another form of pivot joint (albeit a well known joint, pg. 1 lns. 98-101) including an immovable threaded member. Based upon these facts, one skilled in the art would consider substituting an immovable threaded member for a movable one in order to gain the self evident benefit of facilitating nut tightening.

5. Claims 14 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claims 13 and 1 above, and further in view of Smith et al.

The Thulin cup 25 includes a boss and ledge (Fig. 7), and the cylindrical member/pivot joint/pivot joint connection portion 22 includes a ledge (at 28). Therefore, Thulin and Warren teach all claimed elements except for the cylindrical member/pivot joint/pivot joint connection portion including a boss.

Although the cylindrical member/pivot joint/pivot joint connection portion of the Thulin pivot connection does not

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include a boss, as claimed, attention is directed to the Smith et al. (Smith) reference which discloses an analogous pivot connection which further includes a cylindrical member/pivot joint/pivot joint connection portion B having a boss h.

Therefore, in consideration of Smith, it would have been obvious to one of ordinary skill in the pivot connection art to associate a boss with the Thulin cylindrical member/pivot joint/pivot joint connection portion in order to facilitate securement.

Applicant has not substantively argued this ground of rejection in the response beyond noting claim dependency.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Wellington.

Although the nut of the Thulin pivot connection does not include a wing nut, as claimed, attention is directed to the Wellington reference which discloses an analogous pivot connection which further includes a wing nut 20. Therefore, in consideration of Wellington, it would have been obvious to one of ordinary skill in the pivot connection art to associate a wing nut with the Thulin pivot connection in order to facilitate manipulation.

Applicant has not substantively argued this ground of rejection in the response beyond noting claim dependency.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Campbell.

The Thulin pivot connection further includes a cylindrical member seal 46.

Although the Thulin pivot connection does not include a nut seal, as claimed, attention is directed to the Campbell reference which discloses an analogous pivot connection which further includes a nut seal D'. Therefore, in consideration of Campbell, it would have been obvious to one of ordinary skill in the pivot connection art to associate a nut seal with the Thulin pivot connection in order to prevent leakage.

Applicant has not substantively argued this ground of rejection in the response beyond noting claim dependency.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Judell '930.

Although the Thulin mount/pivot connection does not include a third link and second pivot, as claimed, attention is directed to the Judell '930 (Judell) reference which discloses an analogous mount/pivot connection which further includes a third

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link 26 and second pivot 22 where the second pivot is substantially identical to a first pivot 22'. Therefore, in consideration of Judell, it would have been obvious to one of ordinary skill in the mount/pivot connection art to associate a third link and substantially identical second pivot with the Thulin mount/pivot connection in order to facilitate showerhead manipulation.

Applicant has not substantively argued this ground of rejection in the response beyond noting claim dependency.

9. Claims 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Judell and Smith.

The claims merely reiterate the above discussed subject matter.

10. Applicant's remarks have been fully considered and have been previously addressed.

11. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

12. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.



Robert M. Fetsuga
Primary Examiner
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